

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

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|--------------------------|---|---------------------|
| UNITED STATES OF AMERICA |) | |
| |) | CRIMINAL ACTION NO. |
| v. |) | 2:18cr274-MHT |
| |) | (WO) |
| URIEL MANJARAS-VAZQUEZ |) | |

OPINION AND ORDER

This case is before the court on an unopposed motion to continue filed by defendant Uriel Manjaras-Vazquez. For the reasons set forth below, the court finds that trial for this present action, now set for December 3, 2018, should be continued pursuant to 18 U.S.C. § 3161(h) to February 4, 2019.

While the granting of a continuance is left to the sound discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making

public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would be likely to . . . result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Manjaras-Vazquez in a speedy trial. Manjaras-Vazquez has a pending motion to

suppress; the United States Magistrate Judge heard a hearing on the motion on September 6, 2018. Manjaras-Vazquez's counsel is scheduled to be out of the state on November 8-9 and 21-26. Consequently, his counsel will have little time, if any, to confer with him regarding the resolution of the suppression motion and trial. Furthermore, Manjarez-Vazquez contends that the suppression motion will not be resolved quickly enough to allow the parties to reach a negotiated agreement based on the outcome before the December 3 trial.

In light of the pending suppression motion and Manjaras-Vazquez's counsel's scheduled travel out of state, the court concludes that a continuance is warranted to enable Manjaras-Vazquez to prepare effectively for trial or a negotiated agreement.

Accordingly, it is ORDERED as follows:

(1) Defendant Uriel Manjaras-Vazquez's motion to continue (doc. no. 44) is granted.

(2) The jury selection and trial for defendant Manjaras-Vazquez, now set for December 3, 2018, are reset for February 4, 2019, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 6th day of November, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE